

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES**

In the Application of:

ADRIAN LUNGU

CASE NO.: IM1303 US NA

APPLICATION NO.: 09/839,803

GROUP ART UNIT: 1752

FILED: APRIL 20, 2001

EXAMINER: WALKE, AMANDA C

CONFIRMATION NO.: 2560

FOR: A PHOTOPOLYMERIZABLE ELEMENT FOR USE AS A
FLEXOGRAPHIC PRINTING PLATE

REQUEST FOR REHEARING OF DECISION ON APPEAL
UNDER 37 CFR 41.52

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

In accordance with 37 CFR 41.52, Applicant respectfully requests a rehearing of the Decision by the Board of Patent Appeals and Interferences rendered on 24 December 2009 in that the Decision concerning Claim 33 is defective.

In Applicant's Appeal Brief filed on September 15, 2006, Applicant argued on page 5, at lines 21 through 26, that

for the reasons stated above, the combination of Araki et al. with Applicant's admission does not render obvious a printing plate made from a photopolymerizable element wherein the photopolymerized layer has a relief surface with raised areas and a floor that contrasts in color with the raised areas, as recited in Claim 33. Araki et al. do not teach or suggest color contrast between raised areas of a relief surface and the floor in the photopolymerized layer of a flexographic relief printing plate.

Applicant respectfully submits that the Board has overlooked and not responded properly to appealed Claim 33 in view of the recited language that the photopolymerized layer has a relief surface with raised areas and a floor that contrasts in color with the raised areas. The Board fails to point out where Araki et al. teach or suggest color contrast between raised areas of a relief surface and the floor in the photopolymerized layer of a flexographic relief printing plate.

The Board concludes by stating that they sustain the Examiner's §103 rejection of Claims 1-8 based on Araki et al. However, Applicant's Appeal was also directed to independent Claim 33 which recites a relief printing element having the above-described relief surface that is neither suggested by Araki et al. nor addressed by the Board.

Reconsideration of this Decision is respectfully requested.

Respectfully submitted,

/Thomas H. Magee/

THOMAS H. MAGEE
ATTORNEY FOR APPELLANT
REGISTRATION NO. 27,355
TELEPHONE: 302-892-0795
FACSIMILE: 302-355-3982

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